

REMARKS

The Office Action dated March 1, 2011 has been reviewed, and the comments of the U.S. Patent Office have been considered. No claims are added or amended. Claims 31-34 are withdrawn from consideration, but are linking claims which are perceived to be allowable.

Double Patenting

Claims 29 and 30 are rejected on the grounds of non-statutory obviousness-type double patenting as being unpatentable over Claims 1-3 of U.S. Patent No. 5,807,995-A. Notwithstanding the belated presentation of this rejection, Applicants terminally disclaim this application over U.S. Patent No. 5,807,995-A. An appropriate Terminal Disclaimer is submitted herewith, executed on behalf of the common assignee, the Board of Trustees, Leland Stanford Junior University, by their counsel.

Withdrawal of the rejection is respectfully requested.

Withdrawn Claims

Claims 31-34, which are not patentably distinct from Claims 29 and 30, which remain pending in the case, but withdrawn. In the outstanding Office Action, the Examiner maintains they are directed to a non-elected invention without a linking claim. Respectfully, upon allowance of Claims 29 and 30, the allowance of Claims 31-34 is also solicited. Claims 31-32 differ from the allowed claims only in further reciting an antibody that binds to the polypeptide of Claim 29. The antibody is not claimed alone. Surely, if claims to the polypeptide are allowable, claims to the polypeptide and an antibody that binds to it, without further recitation, presents no issues for examination and is equally allowable.

Claims 33 and 34 differ from the allowable subject matter of Claim 29 or 30 in that they recite the antibody that binds to the polypeptide. It has long been the standard of the law in the United States that given the polypeptide, the antibody thereto, without more, is obvious thereover, and accordingly not patentably distinct. Consideration and allowance of Claims 31-34 is accordingly requested.

CONCLUSION

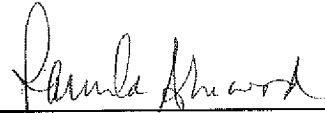
In view of the foregoing evidence and remarks, Applicants respectfully request reconsideration of this Application and the prompt allowance of Claims 29-34, including withdrawn Claims 31-34.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815, order number STAN-010CON2.

Respectfully submitted,
BOZICEVIC, FIELD &
FRANCIS LLP

Date: March 9, 2011

By: _____



Pamela J. Sherwood, Ph.D.
Registration No. 36,677

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, California 94303
Telephone: (650) 327-3400
Facsimile: (650) 327-3231